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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CHOWDHURY, NIGAR

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

11/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,919	Applicant(s) BARBIERI, MAURO	
	Examiner NIGAR CHOWDHURY	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 07/01/2009 have been fully considered but they are not persuasive.
2. In re pages 9-11, applicant argues that Okuyama et al. discloses a method of recording digital television signals at varying data rates. The data rates are adjusted according to the importance of the material to the user and according to the underlying quality of the source video but fails to disclose detecting shot-cuts in the content item and adjusting the period of time based on the detected shot-cut, as recited in claim 3.

In response, the examiner respectfully disagrees. Okuyama et al. discloses in fig. 5-6, paragraph 0036-0038 that "...a bit rate after conversion with a rate converter during one program....bit rate C with the lowermost level represents....commercials was detected....bit rate B of the medium level represents...a usual program....bit rate A of the high level represents a case when broadcasting of highlights was detected by program information.....if recording in the same program is conducted by taking the contents into account, then the entire quantity of data can be reduced by recording only the contents with a high priority as high-quality video and recording other contents at a low bit rate....." Okuyama et al. discloses a different bit rate of a program having shot-cuts of commercial, a usual program, broadcasting of highlights. While a program is recording, the entire quantity of a data is reduced by recording only the contents with a high priority as high quality video and recording other contents at a low bit rate which

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adjust a period of time by reducing the quantity of data based on the detected high quality video.

3. In re pages 11-12, applicant argues that Okuyama fails to disclose "wherein a moving average of the bit rate is determined" as recited in claim 4.

In response, the examiner respectfully disagrees. In addition to paragraph 2 above, Okuyama discloses a different bit rate (A, B, and C) of a program causes a different average bit rate of different programs. Therefore, Okuyama et al. meets the limitation of a moving average of the bit rate is determined by the bit rate of the program.

4. Claims 2, 5, 6 are rejected for the same reason as discussed in the corresponding paragraph 2-3 above.

5. Claims 8, 10-11 are rejected for the same reason as discussed in the corresponding paragraph 2-3 above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 1-2, 4-6, 8-12, 14-19, 21 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2005/0276567 by Okuyama et al.

7. Regarding **claim 1**, a method of detecting a boundary of a content item in a digital video stream, the method comprising the steps of:

- determining (130), in a processor, an average bit rate of the video stream over a period of time (fig. 5-6, paragraph 0036-0038), and
- detecting (140), in a detector, a change of the average bit rate indicating the boundary of the content item (fig. 5-6, paragraph 0036-0038).

Wherein method further comprises the steps of:

detecting (125) shot-cuts in the content item, and adjusting (126) the period of time to the detected shot-cuts (fig. 5-6, paragraph 0036-0038).

8. Regarding **claim 2**, the method wherein the content item is in a digital broadcast video stream (paragraph 0019).

9. Regarding **claim 4**, the method wherein a moving average of the bit rate is determined (fig. 5-6, paragraph 0036-0038).

10. Regarding **claim 5**, the method wherein the content item is a commercial (paragraph 0036).

11. Regarding **claim 6**, the method wherein the digital video stream is MPEG-compressed (paragraph 0028).

12. Regarding **claim 8**, the method further comprising the steps of:

- obtaining broadcast schedule data indicating a beginning and/or end of broadcasting at least one content item (paragraph 0038),
- verifying whether broadcast schedule data are in accordance with the detected boundary of a respective content item in the video stream (fig. 5-6, paragraph 0036-0038).

13. Regarding **claim 9**, the method further comprising a step (150) of determining a position of the detected boundary of the content item within a corresponding period of time (fig. 5-6, paragraph 0036-0038).

14. **Claim 10** is rejected for the same reason as discussed in the corresponding claim 1 above.

15. **Claim 11** is rejected for the same reason as discussed in the corresponding claim 2 above.

16. **Claim 12** is rejected for the same reason as discussed in the corresponding claim 1 above.

17. **Claim 14** is rejected for the same reason as discussed in the corresponding claims 1 and 4 above.

18. **Claim 15** is rejected for the same reason as discussed in the corresponding claim 1 above.

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19. **Claim 16** is rejected for the same reason as discussed in the corresponding claim 2 above.
20. **Claim 17** is rejected for the same reason as discussed in the corresponding claim 4 above.
21. **Claim 18** is rejected for the same reason as discussed in the corresponding claim 5 above.
22. **Claim 19** is rejected for the same reason as discussed in the corresponding claim 6 above.
23. **Claim 21** is rejected for the same reason as discussed in the corresponding claim 8 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 7, 13, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2005/0276567 by Okuyama et al.
25. Regarding **claim 7**, Okuyama discloses the method wherein the content item is MPEG compressed but fails to disclose the content item is in an encrypted digital video stream.

It is noted that the use of encrypted digital video stream is old and well-known in the recording art. Therefore, official notice is taken. Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a well-known encrypted digital video stream to receive secure digital broadcast video signal for user's security purpose.

26. Regarding **claim 13**, Okuyama discloses the method wherein the content item is MPEG compressed but fails to disclose a computer program product enabling a programmable device when executing computer program product to function as the device.

It is noted that the use of computer program product is old and well-known in the recording art. Therefore, official notice is taken. Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a well-known computer program product to function as device.

27. **Claim 20** is rejected for the same reason as discussed in the corresponding claim 7 above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIGAR CHOWDHURY whose telephone number is (571)272-8890. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NC

11/04/2009

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621